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The Advocate, February 1, 1988

SPECIAL ELECTION ISSUE: SEE PAGES 5-7

The Advocate

THE STUDENT NEWSPAPER OF THE NATIONAL LAW CENTER
THE GEORGE WASHINGTON UNIVERSITY

Vol. 19, No. 9 February 1, 1988

Diversity Plan Adopted By Journal; Defeated By Review

by Elizabeth MacGregor

On Thursday night, the staff of the *Journal* voted to adopt a diversity plan which will permit the editorial board to consider an applicant's race, cultural background, disability, and other diversity factors in addition to objective criterion in selection for membership. The same evening, the staff of the *Law Review* rejected a constitutional amendment that would have implemented an identical plan for that publication.

The plan passed the *Journal* by a vote of forty-five in favor and thirty opposed. Eight members did not vote. To amend its Constitution, the *Law Review* required a favorable vote of two-thirds of its membership, or seventy-four votes. The amendment, however, only failed by seven votes, with sixty-seven in favor, thirty-nine opposed, and four not voting. The *Journal* resolution only required a simple majority.

According to Evelyn Ying, *Law Review* Articles Editor, the plan will be passed to the new editorial board. Since the amendment failed by only a few votes, she and other committee members felt that the new board would probably work to devise a new plan to be voted on next year.

The plan, quite similar to ones implemented at the University of Virginia, Harvard and New York University, will go into effect this spring. It will not change the basic nature of the competition. Under the current selection procedure, selection to the *Journal* is based sixty percent on grades and forty percent on a writing competition held during spring break.

Under the diversity plan, an applicant may also submit an optional personal statement, turned in separately from the writing sample, describing how their presence on *Journal* would enhance the publication. The statement would be confidential and the applicant would not put his or her name on it. Factors that would be considered include cultural background, nationality, personal adversity, physical or mental disability, prior experience, race and ethnicity, and other factors that the editorial board feels will increase diversity in the publication's membership.

Before the end of the spring semester, a committee of five members of the editorial board will review the statements and select the most outstanding. The full editorial board will vote on each of these statements to determine whether to consider it. A majority of the board must vote favorably on a statement for it to be considered.

During the summer, selection based on grades and writing sample will proceed as usual. However, after the approximately fifty-five members have been selected through the traditional process, the final selection committee may select from zero to five additional members based on the outstanding personal statements. Only applicants demonstrating "solid potential for *Journal* work" -- as indicated by their grade-point average and writing competition score -- will be selected through the diversity process.

The plan was developed by a committee of three *Journal* editors and three *Law Review* editors. It took almost a year to formalize. The *Journal* committee members included Julie Ford, Denise Greig, and Doug Fierberg. The *Law Review* representatives were Michael Maurer, Evelyn Ying and Philip Crawford. In addition, BALSA, APALSA and MLL were consulted. These organizations and Dean Barron support the plan.

According to Michael Maurer, *Law Review* Notes Editor, the committee avoided characterizing an ideal personal statement. However, it was felt that the committee members, by bringing their own diverse viewpoints to the selection process, will easily recognize applications presenting new qualities for the publication. By the same process, the committee can distinguish those applications that are merely "puffing" or not significantly unusual. Furthermore, a majority of the whole board must approve each diversity statement.

Opponents to the plan cited a number of reservations. One fear is that the current plan leaves too much discretion in the hands of the boards. The plan offers no absolute cut-off for diversity admission; rather, the board determines admission on an ad hoc basis. Therefore, according to critics, it is conceivable that an applicant in the bottom of the rankings may be selected for membership.

Proponents of the plan admit that it leaves a great deal of discretion in the hands of the editorial board. According to committee members, this was a conscious decision. They wanted the board to have flexibility in its decision process that an arbitrary cut-off would not provide. Also, the boards already have significant discretion in membership selection -- scoring of the writing sample, weight given to the writing sample vis-a-vis grade-point average, and percentage to be selected based solely on writing sample are not specified in constitutions or by-laws, but determined by the editorial boards. "The entire competition relies on the good faith of the board," said Maurer.

Furthermore, proponents note, it is impossible for an applicant to be selected from the bottom

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Trachtenberg New GWU President

by Sally Weinbrom

Stephen Joel Trachtenberg has been appointed as the fifteenth President of George Washington University. He will replace the outgoing President Lloyd Elliot on August 1 when Elliot completes his twenty third year at the head of this university.

Mr. Trachtenberg comes to Washington from Hartford Connecticut where he has been president of the University of Hartford since 1977. His tenure there intimates changes and probable energetic fast forward for GW in the near future.

Trachtenberg's appointment is of particular interest to the law school since he holds a J.D. from Yale, and therefore is likely to be attuned to the needs of the law school. In addition, Trachtenberg will at least be on the scene when the new Dean is appointed. However, according to Professor Roger Trangsrud, chairman of the Dean Search Committee, President Elliot will still be officially the president of this university when the new Dean is selected. In 1979, Elliot's support of Dean Barron was instrumental in his selection.

However Trangsrud said, "The fact that the presidential search has now been completed is a help to us in the Dean search process."

In addition to his practice as a lawyer with the U.S. Atomic Energy Commission, Trachtenberg has also taught law and public administration at Hartford. Hartford does not have a law or medical school. Nevertheless, Trachtenberg's accomplishments there have been impressive. The University of Hartford changed from a commuter college to a Division I, respected academic center in the competitive northeast. In addition, he has been responsible for Hartford's massive building projects, and an increased endowment.

The Presidential Search Committee is particularly enthusiastic about Trachtenberg. Chairman L. Stanley Crane said, "Stephen Trachtenberg is known as a dynamic and innovative leader who is committed to excellence in higher education."

The committee selected Trachtenberg from five finalists on the basis of his satisfaction of varied criteria including a record of leadership and successful management in higher education, fundraising, planning and organization. The committee paid particular attention to candidates expressing interest in responding to issues concerning the diversity of the university community and the responsibilities and opportunities of the urban university in the nation's capital.

In accepting the appointment, Trachtenberg said, "George Washington University has established an enviable reputation as an institution whose devotion to teaching, research and service is balanced with a powerful involvement in national and international affairs. My first goal as president will be to see to it that this balance and this record of achievement are maintained and, wherever possible, strengthened and extended."

This will not be Trachtenberg's first stint in Washington. After graduating from Yale and working for the U.S. Atomic Energy Commission, he joined the staff of the House Education and Labor Committee as a legislative assistant. In 1966, he served as

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The Late, and 684 0700 Not - So - Great, Professors

·Deadlines, for professors and students alike, come and go. The following is a list of professors who have failed to meet the NLC deadlines set for them for turning in grades to the records office.

Banzhaf	January 21
Chandler	January 14
Cibinik	January 25
Dienes	January 7
Nash	January 21
Reitze	January 26
Sharpe	January 13
Sims	January 6
Trangsrud	January 14
Woodman	January 4
Zenoff	January 6

The Advocate
The Student Newspaper of the National Law Center

EDITORIALS

Campus Diversity

The *Journal* vote last Thursday evening raises once again a significant and disturbing issue at the NLC. The *Journal's* diversity plan seeks to create a more heterogeneous membership on the publication -- racially, culturally, ethnically and economically, among other factors. However, we cannot help but think that the *Journal* staff, as well as the staffs of every other organization at the NLC, would be more diverse if our student body *as a whole* were more diverse.

In order to create a more diverse environment the administration must take the lead. This environment can only be changed by developing recruitment, admissions and financial aid policies designed to encourage enrollment of talented minority students, older candidates and economically disadvantaged applicants.

In order to recruit more diverse candidates, particularly racial minorities, the NLC must be presented as an environment that will be hospitable. The Admissions Office should hire minority staff members, and send them on recruitment trips to colleges and universities.

The current admissions and financial aid procedures assure that it will be months before an admitted applicant receives a financial aid package. Since the NLC's tuition currently hovers around $12,000 per year, few of the diverse candidates, qualified as they may be, can consider attendance at GW without some financial aid. By the time they receive word on financial aid from GW, other universities have enrolled them.

By continuing the current admissions policies, we can assure that our student body will reflect those best able to afford it: talented young men and women from upper-middle class families in affluent American neighborhoods. Wouldn't we like to see some talented men and women, young and old, from all types of backgrounds?

Elections

The time has come once again for SBA and GWUSA elections. Many students don't vote in either race. Every one of you are free to make that choice. No matter how unwise. We think you should vote. We won't try to appeal to your "democratic duty" to make you vote, nor will we promise you that voting is a panacea. We do, however, hope that you will put in a ballot for the candidate of your choice.

Law students are notorious grumblers. Without time and energy, those grumbles rarely elicit action. But making things happen is the purpose of the SBA and GWUSA. Beyond their highly visible "social arbiter" role, the SBA has, and is expected to continue, to reach real issues of student concern, such as adjusting to a new law school and university administration, developing and implementing a school-wide honor code, and saving the credit/no credit option from complete extinction. GWUSA, responsible for distributing university funds and helping to form university policy, has a vital, though unbeknownst, role in every law student's enrollment at the NLC.

Grumble or pay attention to the campaigns in the coming weeks. And, then, vote.

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Editors
David Koman
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Business Manager
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Monday, February 1, 1988
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Monday, February 29, 1988
Monday, March 21, 1988
Monday, April 4, 1988

Letters to the Editor

Windows I

To the Editor:

Professor Banzhaf is absolutely correct in suggesting that one way to improve the NLC's rank among the nation's law schools is to provide offices with windows to all professors and thereby enabling the NLC to attract higher quality faculty.

It is a well established fact that quality of a law school faculty is commensurate with the percentage of faculty offices with windows. The latest census reveals that while the law schools at Stanford, Harvard and Yale (arguably the top three law schools in the country) provided an average of 73.2 percent of their professors with "rooms with a view," only 32.6 percent of the NLC's faculty had offices from which they could keep abreast of the latest changes in the weather without having to pick up a phone or turn on a radio.

As Professor Banzhaf states, what we need are "more specific and concrete plans for advancing in the rankings." That is why I am proposing to Dean Barron (what does he care? -- his office is essentially one big window) that a committee be set up to study the possibility of providing each faculty office with a window in order to make the outside world visible to all NLC professors and consequently, to make the NLC more visible to the rest of the world by upping the school's rank among the nation's law schools. In honor of Professor Banzhaf, whose love of acronyms is legendary, the committee would be called VIEW (Visibility and Excellence through Windows).

It was about time someone spoke up and exposed the ugly facts underlying the NLC's image problem. Where would this law school be without the ubiquitous Professor John Banzhaf?

Marc R. Salans

Windows II

To the Editor:

The new year holds much promise for the future of the United States and the world. Peristroika and Glasnost, a new beginning for the space shuttle and the American space program, peace in Central America, and the end of Ronald Reagan's residency at 1600 Pennsylvania Avenue are but a few of the pleasures 1988 has in store for us. Unfortunately for the humble students of the National Law Center, 1988 will not find our beloved institution ranked among the top twenty law schools in the nation. Although this startling news is indeed grim, we should be solaced by Professor Banzhaf's fine efforts to bring attention to the issues that plague our law school and retard its ascent to Olympian stature among the legal profession. In his latest scathing article, Professor Banzhaf wastes no time trimming the fat, to get right to the heart of the matter. To hell with dead issues such as minority recruitment, low profile faculty (except, of course, Professor Banzhaf who has probably never been accused of apathy), poor quality teaching, or skyrocketing tuition far in excess of inflation. Let's face it, the real problem, appropriately characterized by Professor Banzhaf, is that not enough faculty members have offices with windows. It is common knowledge that lofty law professors who spend countless hours pondering the great legal issues of our time are justifiably concerned about the number of square feet of window space allotted per faculty office. Arthur Miller, the noted Harvard Law professor and role model for actor John Hausman's portrayal of Professor Kingsfield, once told a reporter that the reason he accepted a position at Cambridge rather than in Foggy Bottom was because, "Harvard has the cutest little offices, and, on a clear day, the view just takes my breath away."

I recently read a study comparing the physical plants of Georgetown Law School, ranked number thirteen, and the National Law Center. Not surprisingly, I discovered that Georgetown has an average of 6.3 square feet of space per faculty office, whereas the National Law Center has a wimpy 1.4 average. My conclusion, reflected in the rankings, was inescapable.

As if this testimony were not sufficient to drive the point home, I know from personal experience the importance of natural indoor lighting. During my interviews last Fall, I didn't waste my time asking trivial questions such as, "What type of law does the firm practice?" or "How many years to partnership?" I simply limited my inquiries to the architectural design of the firm's office, focusing, of course, on the window space. Needless to say my mailbox was quickly crammed with offers.

Professor Banzhaf has correctly pointed out that the lack of window space has endangered the mental health of the faculty and has devalued each and every student's diploma. Therefore, I suggest that Professor Banzhaf and his Legal Activism class pursue a law suit against the architect for emotional distress and negligence. Obviously any reasonable person would have known the risks involved in designing faculty offices without a view.

Although it is blatantly clear that we have a serious window crisis on our hands, I must, in the interests of fairness and full disclosure, present some of the arguments I have heard in favor of windowless offices. Generally, these arguments focus on decreased faculty productivity. First, faculty who lack the strictest self-discipline have been known to gaze hypnotically through their windows for hours on end. Obviously, these periodic trances use time that may have been allocated toward writing scholarly works. Second, windows are not as heat efficient as walls. In the winter, this means cold drafts. Cold drafts mean flues, coughs and various other illnesses. As a general rule, germ and virus infected faculty are less productive than healthy faculty. Finally, faculty in windowed offices tend to waste time conjuring up trivial issues to nag about in law school newspapers. Obviously at the National Law Center where offices are windowless, we do not have this problem.

This letter was intended to be a sarcastic criticism of Professor Banzhaf's analysis.

Letters to the Editor (Cont'd)

It does not suggest, however, that his conclusions are faulty. The National Law Center has a serious image problem that needs to be addressed. I think it was unfortunate that Professor Banzhaf chose to trivialize the issue, but at least he brought it to our attention. It is now up to the administration to ask and resolve some penetrating questions. Why don't we have more courses designed to take advantage of our unique location? Why don't we attract more minorities? Why can't many of our professors teach law and relate to students more effectively? Why don't GW professors publish more frequently? Answers to these and other questions may shed some light on the ultimate question: Why aren't we in the top twenty? If we spent less time bitching and moaning about the windowless offices and worthless elevators, and more time pursuing truly worthwhile issues concerning our school, maybe we would already be in the top twenty. In any event, we can be in the top twenty, we just have to get off our asses to do it.

Bill Vincent

Windows III

To the Editor:

I would like to respond to Professor Banzhaf's article on why the NLC is not a top-20 school. I imagine that we could all speculate as to the reasons the NLC is not top-20, but it seems to me the real question is what keeps the NLC from being a *better* school, regardless of its position relative to other law schools. I doubt that, as Professor Banzhaf suggests, offices without windows keep prospective faculty members away. In fact, I doubt at all whether it is the faculty itself which keeps the NLC from improving.

It appears to me, and the American Bar Association as well, that the size of the first year (and subsequently, second and third year) class is the real problem. What the NLC *really* needs is a Dean who will make substantial cuts in the size of each entering class, which would hopefully cut down on the size of course rosters. By doing this, the quality of education would inevitably improve.

A few weeks ago, I spoke with a member of the ABA Law School Inspection Team regarding the NLC. She told me that her main criticism of the NLC is the size of its student body. She suggested that the "obscene" size of the majority of our classes was severely effecting the quality of our education. When I first heard this, I was skeptical that class size was that important. But I recently attended a class at a much smaller, much less prestigious law school and realized how much we miss at G.W. Instead of the intimate, graduate education other students get in smaller classes, we at the NLC get an education akin to an industrial, factory-like production. The fault lies neither in the students nor the professors, but in the environment which prevents stimulating class exchange.

I hope that our new Dean will make this a priority. Of course, to do so, he or she would have to step up the school's fundraising effort to compensate for lost tuition. But, it seems a small price to pay for *real* legal education. Unfortunately, most of us will never experience that.

Johanna F. Chanin

Law School Justice

To the Editor:

A series of recent *Advocate* articles denounced the National Law Center's honor code for students as compared to other local law schools. To temper these criticisms, it might be interesting to look at the justice system for students at GW. Specifically, what happens when a professor unjustly accuses a student of cheating and reflects such an accusation in the student's course grade?

Having gained first hand experience in appealing such a case, perhaps my example might be beneficial to students in similar circumstances and add a new dimension to the honor system discussion. As in any conflict resolution, step one is for the parties to attempt to resolve the dispute. Failing such discussion, step two for the student is to discuss their problem with one of the Deans, Valdez or Potts, who may attempt mediation. Again failing resolution, step three requires a written request for a hearing before the law school's Scholarship Committee. This faculty peer review committee is composed of three senior faculty members, one of whom acts as chairperson.

My experience with the Committee proved to be a lesson in constitutional rationality. The Forefathers knew what they were doing when they established the "jury of peers" system. The case involved two Negotiations professors and a paper which one of the professors scored and returned. The professor did not record my score and the final course grade did not reflect its receipt. Contacting the other professor about the grade met with cool disbelief that such a mistake occurred. I produced the scored paper, appropriately marked in a distinctive green. The professor questioned the authenticity of this 30 minute correction of a one page exercise and "negotiated" a two point increase in my grade instead of the approximately 11 indicated. Speechless at being accused of forging the paper and attempting to cheat in such a blatant manner and being ignorant of procedures for appealing such an unjustified decision, I accepted.

Mortified, I wrote a letter to Dean Potts asking for his intervention and any review procedure available (step two and three combined). After the Dean's efforts to mediate failed, we met and reviewed his conversation with the professor. I then moved to step four and went before the Scholarship Committee. The Chair of the Committee questioned me in the same terms and phrases reiterated by the Dean from his conversation with the professor. Although my defense -- who would go to such lengths in such a public manner to cheat? -- seemed quite sound, the Committee ruled against me. Perhaps their review of my grades, sitting before them, convinced them that even though I earned the higher grade and hadn't cheated, I didn't deserve a correction.

Whatever the rationale, I stand accused and convicted of cheating in law school by a jury of my professor's peers. I, a professional person of ten years, a former advocate of the poor, a public servant with many awards, convicted on the word of a professor who admonished us on the first day of class to leave our morals at the door. Perhaps he thought I took his advice. I didn't. He was right in one respect, however. My personal integrity and self-esteem have no place in law school, I am my grades and nothing more matters. I share this experience with my fellow students and wish you all luck in the hallowed halls where legal principles are heralded but not revered, at least where students are concerned.

Pat Rye
Fourth Year Night Student

Bad Ad

To the Editor:

We would like to respectfully express our disappointment and displeasure over the *Advocate's* selection of advertisers. We refer specifically to the *Playboy* advertisement contained in the November 2, 1987 issue of *The Advocate*; this advertisement, you will recall, invited female readers to audition for *Playboy* in order to be included in the magazine's special "major pictorial" issue, "The Women of Washington."

The undersigned, members of the Class of 1988, evening division, believe that this advertisement shows a glaring lack of sensitivity on the part of *The Advocate* to women at the National Law Center. The amount of intellectual energy and effort each of us has expended over the past three and one half years at the NLC need not be described, as it is common to all students at the school. Suffice to say that we have worked hard and long to become attorneys, women who will hopefully be judged by our professional achievements and not by our physical attributes.

We understand that *The Advocate* has the right to accept any advertisers it chooses, including *Playboy*. That does not mean, however, that *The Advocate* has any duty to accept this type of advertising. We sincerely believe that a publication such as *Playboy*, with its demeaning and vulgar presentation of women, should have no place in a law school newspaper. Surely the National Law Center does not want to align itself, even in a minimal way, with *Playboy's* regressive attitude toward half the human race.

Juliet Mellow
Karla Perri
Pat Rye
Ellen M. Wells
CeCe Quinlan
Sarah Kagan

Windows IV

To the Editor:

I was disturbed by Professor Banzhaf article "NLC: Nowhere Near the Top Twenty." While Professor Banzhaf did raise some crucial points -- like the urgent necessity of providing faculty offices with windows -- for the most part his column was written with reprehensible insensitivity and demonstrated a commendable incapacity for academic leadership.

Professor Banzhaf is upset because the NLC was not ranked in *U.S. News & World Report's* list of top twenty law schools. His response is to hypothesize ways of improving the faculty and students. It seems as though he wants to replace everyone around the NLC but himself. He is very concerned with LSAT and GPA numbers. He is very concerned about being inferior to Harvard and Yale. Essentially, he judges everything about our law school by its *U.S. News & World Report* ranking, and leaves the reader with the impression that current students are parasitic lepers whose places should be held by better students in the name of propelling the NLC into the top twenty.

It is my perception that the purpose of this law school is to provide an academic community to study the law, not merely "to be in the top twenty." Although I share Professor Banzhaf's frustration that we are not highly regarded nationally, I do not believe the solution is to publish an article in a student newspaper implying that the students and faculty are generally inferior. Furthermore, I find Professor Banzhaf's disposition toward the students particularly offensive because it is the success of today's graduates which will more than anything improve our reputation. I am confident that several of my fellow students will develop into extraordinary attorneys, yet those of us who aspire to this country's most attractive legal jobs will face a perennial uphill bottle against top twenty graduates due to the school-name-based discrimination that is for better or worse ingrained in the legal profession. It seems to me that Professor Banzhaf would best achieve his top twenty condition for the NLC by giving his students his full professorial support rather than by openly attacking their capabilities in an open forum.

A. Franklin Greenstone

WHY AREN'T WE TOP TWENTY?

We invite all students and faculty to submit suggestions for improving the NLC to be printed in our February 16th Issue.

DEADLINE: Thurs. Febraury 11

Abortion: The Right To Choose

by CeCe Ibson

This week marked the anniversary of the passage of *Roe v. Wade*, in which the Supreme Court of the United States upheld the right to abortion as within the parameters of the Constitution. The ensuing clamor has yet to die down and perhaps never will.

On Friday, January 22, the Right to Life-ers descended on Washington in droves. Among the demonstrators were children, some no more than five or six years old, carrying signs and placards with graphic depictions of the horrors of abortion. I was moved by the sight of those small children as they walked down Constitution Avenue clinging to the hands of their parents whose faces bore looks of pride. My reaction was one of disbelief mixed with fear.

OPINION

The abortion adversarials have aligned themselves on two ends of the spectrum, the Right to Life end and the Pro Choice end. Between them lies a lot of middle ground on which many stand, yet most seem to take either the high or low roads. They either like abortion or they don't. On this particular issue, for and against translate into approval or disapproval, right or wrong. By its very nature, abortion invokes a value judgement on the road to opinion. The right to abortion has become law and law, as many jurisprudential theorists say, necessarily encompasses notions of right or wrong. This is a very frightening concept indeed and why I found myself cringing on Constitution Avenue.

I will not debate the sociological, physical, economic or religious grounds upon which the Right to Life and Pro Choice groups base their arguments. My concern is not so much whether the right to abortion is itself lawful, but whether the right to make value judgments based on some scheme of morality is lawful.

"Legislating morality", which the Falwellian school of jurisprudential theorists and lawmakers are so ardently pursuing, has no place in an arguably modern society purportedly founded on basic human rights and freedoms.

As an adult and as a human being, I have the right to choose how I will live my life. That choice is necessarily influenced by many things, my parents, my peers, my church. When I make my choices I consider these factors carefully and choose which I will allow to influence my behavior. Just as my parents and peers cannot legislate against my personal judgments, neither can my elected officials. This is not to say I have the right to do anything I want, for inherent in my (and our) human nature is an obligation to humanity.

I do not have the right to walk up to a pregnant woman on the street and tell her that, because she is unemployed and barely able to support herself, she must abort her child. She has made her choice and while I might not agree with her, it is none of my business. Conversely if I choose, for whatever my reasons may be, to have an abortion, that woman on the street has no right to tell me I can't.

Those who are against abortion will argue that my position ignores the rights of the fetus. The Supreme Court has made a decision as to fetal rights, and while I do not find it so easy to delineate when a creature is viable and when it is not, the decision as written is still the lesser of many evils. The fetus may have rights, and if I were an advocate of abortion in any situation, under any circumstances, I would indeed be ignoring them. I am not such an advocate. What I am saying is not that abortion is right or wrong, but that I have the right to make such value judgments myself, without congress, without the courts and without the people who fire-bomb clinics and doctor's offices.

Admittedly, my first feelings towards those demonstrators Friday were feelings of anger. I was angry that they felt the need to do what they were doing and that they felt the need to drag their children into it. But I don't have the right to be angry because each of us is entitled to think, speak, act and write on our convictions. There is a fine line between when those actions are protected and when they are not. Demonstrating against abortion does not cross that line, but the goal of such demonstrations, the abolition of the right to abortion, most certainly does.

Grades: Rank and File

by Sally Weinbrom

It seems that everyone these days is grappling to become the best. Justifiable or not, rankings are distributed in every phase of human life from college football ratings to law class rank to, horrors, law school stature.

With each additional rung or gradepoint, the rated individual registers gain. In college football, gain is measured through invitations to more prestigious bowls meaning more money; in law school gain is reflected by the number of interviews and the liklihood of higher salaries meaning more money; and for the law school, gain is measured through luminosity of teachers, greater endowments and you guessed it, more money.

OPINION

Though obviously such rankings connote material gain, the universal dilemma of such rankings is their fairness. Everyone knows that college football rankings are skewed toward traditional power houses. So, each year, sports writers pick the best team in football based on the bowl season. And, each year sports fans contest their selection pointing to such inequities as differences in schedules, differences in team healthiness and toughness of bowl opponents.

Just as every January brings bowl season, it also brings posting of first year grades. To most first years, the general concensus is that these numbers will determine their future law school careers, and seemingly, their lives.

The importance of these marks is not dispelled by second year since, as students enter the interviewing season, they are constantly aware of who in their class finished where based on the number of times an individual's name appears on the CDO interview board. Third years are particularly jarred by the numbers game since, for them, grades have ceased to be a casual competition with other law students and started to be a bloodied fight to the death for power, prestige and a greater starting salary.

There are no easy ways for students who have not performed well to reconcile themselves to their unexpectedly poor showing. There are few outlets here for discussion since other students are just as happy or unhappy. Professors too, who seemed distant and unapproachably grand at the beginning of the semester, are now impossible to talk to since they, the stars of their own law school classes, are fairly or unfairly assumed to be unsympathetic. Non-law school friends, even those in other graduate diciplines, often can't understand the importance of grades to the law student.

All, however, is not dim. Grades may go up or down in the future, jobs may be offered or unoffered. But, what ever happens, each person's response to their condition determines their course. At the risk of repeating hack phrases, ruing what didn't happen is a waste of time. Putting your efforts toward making something happen is both time-saving and conscious gracing.

And the other thing to keep in mind is that they are, after all, only numbers and not defining terms. Without denegrating those who performed well, the danger of assigning value based on a number rank is well documented. Number 2 often beats number 1 on New Year's Day. How many times has the underdog triumphed?

But, how many times has the same underdog been beaten by his own predisposition to second stature rather than preeminence? Self fufilling prophacy is the phrase bantered by many psychologists. Fate is more likely to come to the mind of the mystified law student.

In the end, the grading system like most ranking systems is an unfair but essential beast. Even those that do well will not dispute that. Some people take tests better than others. Some people adjust differently to law school. Some people didn't feel well the day of the test or forget, through nervousness, to read the entire question.

Whatever the reason, it is critical to keep in mind that the difference separating the bottom quarter of the class from the top quarter is about 15 grade points and piles of self esteem.

As you find yourself criticizing the next AP football or basketball poll, or regretting GW's placement in the second tier of law schools, remember that numbers unlike people have no story to tell.

CD's Eye DC Homeless

by Carl Bober

As the winter season reaches its coldest peak, the prospects for our nation's homeless people today is bleak. For these unfortunate individuals, the homelessness question is not a political campaign issue to score sympathy points with, but rather a matter of life and death. Despite the heroic efforts of a relatively small number of people, it is simply a fact that not enough is being done for these people. The College Democrats are working hard to correct this state of affairs.

Regardless of whether you're a Democrat or a Republican, it seems sadly ironic that the Reagan Administration is proposing $36 million in Contra aid (mostly for humanitarian assistance) when people are freezing to death within blocks of the White House. Think of it--millions of dollars to feed, clothe and arm Nicaraguan rebels and mercenaries thousands of miles away, while American citizens sleep on metal grates in sub-freezing temperatures, having to beg for assistance. I'm sure these people took great solace in the President's State of the Union message that the number of poor is decreasing. How can it be "democratic" to arm and supply foreigners to overturn governments when a frightening number of Americans are malnourished, uncared for and unsheltered? I guess the homeless aren't registered

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Diversity (Cont'd)

From page 1

of the rankings, since the plan requires that the objective criteria, writing sample and grades demonstrate "solid potential for *Journal* work". Critics counter that this process, because it involves a subjective evaluation, necessarily creates a "slippery slope."

Another criticism focuses on the plan's characterization as a diversity plan. Some argued that it is really an affirmative action plan in disguise, which will diminish the reputation of the publications.

Julie Ford, Executive Articles Editor of the *Journal*, emphasized that the plan is different from affirmative action plans because it does not establish quotas for members of specific groups, does not displace applicants in the traditional competition, and considers numerous factors besides race and ethnicity.

Ford further contends that the plan will not create a stigma for members admitted under it, nor lower the quality of the publication for two reasons. First, anyone competing for membership may complete a diversity statement and after the selection process is completed it will be unknown who was selected under the plan. Also, the committee will only select for membership those applicants whose grades and writing competition scores were relatively close to the cut-off point for selection based solely on objective criteria.

Some, however, opposed the plan for the opposite reason. They felt that the only diversity factor not already reflected in the staffs of the publications currently is race. There are currently no black members on either publication. Since the lack of racial diversity is the only significant problem, the plan should address this issue directly.

These critics claim that last year none of the black students at the NLC competed for membership. Thus, a recruiting drive among minority students would probably bring more minority members through the traditional selection process, and if this did not work, then a diversity plan directly focusing on this problem should be implemented.

The drafting committee emphasized that the publications are trying to encourage minority students to compete for membership. However, the plan is not directed solely to racial minorities, and is not a minority recruitment plan for either the publications or the law school as a whole. According to Ford, last year is a bad year on which to judge minority participation in the competition, since that first year class had very few racial minorities.

Another criticism concerned the application of the plans had they passed in both publications. It was argued that if *Law Review* selected their members under the plan from those falling directly below their cut-off, it would take away diverse applicants who would qualify for the *Journal* under the objective criteria. The plan also left unclear whether *Law Review* would select its members under the plan from those falling directly below its cut-off, or whether both publications would select members by the objective criteria and from the range below that select members under the diversity plan.

Committee members countered that many applicants only compete for one publication and would not be considered for the other under any circumstances. Also, since the two publications use different ratios for writing scores and grade-point averages and separately score the writing samples, many who would be close to membership in one publication would not be in the other.

Prison (Cont'd)

From page 11

meant as Dr. Jones and I went over to the prison factory.

As we waited for an officer to key us into the factory building, I began to wonder which state's license plates they would be making since this was a federal facility. I learned that prisoners don't make license plates in the high-tech 1980's; they make electrical cable and lots of it. Inside, inmates busily labored at work carrels making miles of complicated looking electrical wiring. The cable in turn gets sold to the government, and the profit goes to the Bureau of Prisons. The factory looked just like I imagined a civilian cable factory would look like with the exception of the doors locking from the inside.

It made me feel good to think that these guys were learning and doing a job that they could continue when they get out of prison because that is what eventually is going to happen to the majority of them in twenty-four to thirty-six months. Rehabilitation is expensive and recent studies show that such programs are only marginally effective. It is too easy to revert back to outlaw behavior once you are back running with your homeboys.

Since there is no constitutional entitlement to rehabilitation while in prison, some states are dismantling their rehabilitation programs to spend the money improving the standards of other prison conditions. Corrections theory seems to be shifting toward the view that the only goal of sentencing that imprisonment can fulfill is punishment. With the new federal sentencing guidelines providing that virtually everyone who catches a "beef" does time in prison, it is clear that some other system has got to shoulder the burden of guiding these people away from their criminal orientation.

If I carried anything of worth away from my yuletide field trip to the big house, it is probably the understanding that we as a society need to change many of our views about criminal corrections and prison. I'll probably think twice before I complain about a city or state not expanding its stadium because it needs the money for education or drug rehab programs. I'll probably also get angry when a city does just the opposite.

Write for Amnesty International

by Jon Katz

Nearly every month, lawyers around the world are deprived by their governments of fundamental human rights. These attorneys are imprisoned or tortured for defending the political or religious rights of others or for engaging in dissident activity themselves. The National Law Center's Amnesty International chapter urges law students and professors to support the human rights of members of the world legal community by joining one of the following three mass letter-writing campaigns.

Arrest in Rumania

Last month, Rumanian authorities arrested and detained 34-year-old attorney Nelu Prodan, reportedly for taking bribes. However, Amnesty International is informed that he was actually detained for defending fellow Rumanians being prosecuted for their religious activities and for representing Bucharest churches in court actions against the authorities.

Please send polite letters requesting details of the charges against Nelu Prodan to:

Delui Ministru al Justitiei
Maria Bobu
Bedul Gheorghe Gheorghiu-dej
33
Bucaresti, RUMANIA

Arrest in Zaire

Authorities in Zaire arrested and detained attorney and former government minister Tshisekedi Wa Mulumba on January 17, 1988, apparently for his peaceful efforts to form a second political party in this one-party nation. He was reportedly beaten soon after his arrest.

Mr. Mulumba has spent four out of the past six years in prison or in internal banishment for his non-violent opposition to the government. The arrests concerned his attempt, with others, to form a second political party in Zaire, the Union for Democracy and Social Progress (UDPS). His arrest last month came just before he began speaking to an audience in Kinshasa. Other persons at the gathering were also arrested and there are reports that some UDPS supporters at the gathering were severely beaten by security force members and that some may have been killed.

Mr. Mulumba is reportedly held in incommunicado detention at Kinshasa's prison. It is reported that the government will subject him to psychiatric examination on the basis that his recent political behavior may indicate that he may be mentally ill.

Please write polite letters in English or French urging that Mr. Mulumba be released immediately, that he be given a fair and speedy trial, that he not be beaten in prison, and that he not be subjected to psychiatric examination:

Citoyen N'singa Udjuu Ongwakebi
President du Conseil Judiciare
et Commissaier d'Etat a la Justice
Departement de la Justice
Kinshasa-Gombe, Republique du ZAIRE

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Equal Justice at GW

By Lou Manuta

Probably the biggest event EJF is currently dealing with is the wrapping up of the preliminary stages of our Loan Forgiveness campaign.

The Loan Forgiveness Task Force proposal, complete with complex analyses of the financial needs and desired goals of the student body, has been submitted to the administration and faculty. We are waiting for their approval and, hopefully, a trial term of the program will be available for the Fall of 1988. Once again, the program will not cost the students any money, as it will be supported by alumni and foundation grants. Only those who would desire to use the loan forgiveness program would be affected by it. It is the answer to things that are inspiring and unrealistic with realistic things that are uninspiring.

As for EJF as a whole, on Tuesday we had our first general meeting for the semester. Besides the usual dissertation on the benefits of EJF and the responsibilities of each department, there were also refreshments served. The fund raising committee is working on the finishing touches for both a raffle and an auction this semester. The career development committee is looking for volunteers to assist the CDO in the Public Interest Interview day. Also, able bodied helpers are always needed for the community outreach department. If you missed the meeting and still want to join in on the fun, just leave a message on the bulletin board in the EJF office in B-306.

Finally, applications are now available in the EJF office for the Summer Grants program. If you'd like to work in the public interest this summer and the only thing holding you back is a lack of funds, complete one of the forms for an opportunity to receive some funding if the place of your choice can't pay on their own. It could make all the difference.

Law Review Has Issue

by Steve Stone

When the current editorial board was selected last March, it set two primary goals: to bring the *Review* up to date and improve the quality of notes and articles published. Since that time, the *Law Review* has published five issues and is currently working on three issues that will be published within the next four months.

Issue 55:3 of the *Law Review*, published in October 1987, has been well received. An article written by Professor Daniel Gifford of the University of Minnesota, entitled "The Separation of Powers Doctrine and the Regulatory Agencies After *Bowsher v. Synar*", was cited and quoted parenthetically by the D.C. Circuit in its decision striking down the independent-counsel law. See *In re Sealed Case*, No. 87-5261, slip op. at 45 (D.C. Cir. Jan. 22, 1988).

Additionally, Professor Marjorie Silver's article "The Uses and Abuses of Informal Procedures in Federal Civil Rights Enforcement" was included in the "Worth Reading" column published by the *National Law Journal* in its February 1, 1988 issue.

Of the student-written pieces published in issue 55:3, Don Levy and Debbie Duncan's note, "Judicial Review of Administrative Rulemaking and Enforcement Discretion: The Effect of A Presumption of Unreviewability", was included in the "worth reading" list distributed by the United States Courts Library for the Ninth Circuit to all federal judges in the circuit.

In December 1987, the *Law Review* published the inaugural issue of the D.C. Circuit Review, 55:4 & 5. The issue was introduced by Chief Judge of the D.C. Circuit Patricia Wald and former Chief Judge Spottswood Robinson III, and it includes twenty student-written chapters, each of which analyzes recent D.C. Circuit opinions in a specific area of law.

The most recent issue (56:1), published this January, is a symposium commemorating the bicentennial of the Constitution. The symposium uses as its touchstone Charles Beard's *An Economic Interpretation of the Constitution of the United States*. Introduced by retired Chief Justice Warren Burger, the issue includes provocative essays by notable scholars such as Judge Richard Posner, Sanford Levinson, Mark Tushnet, Cass Sunstein, Richard Epstein, and Jonathan Macey.

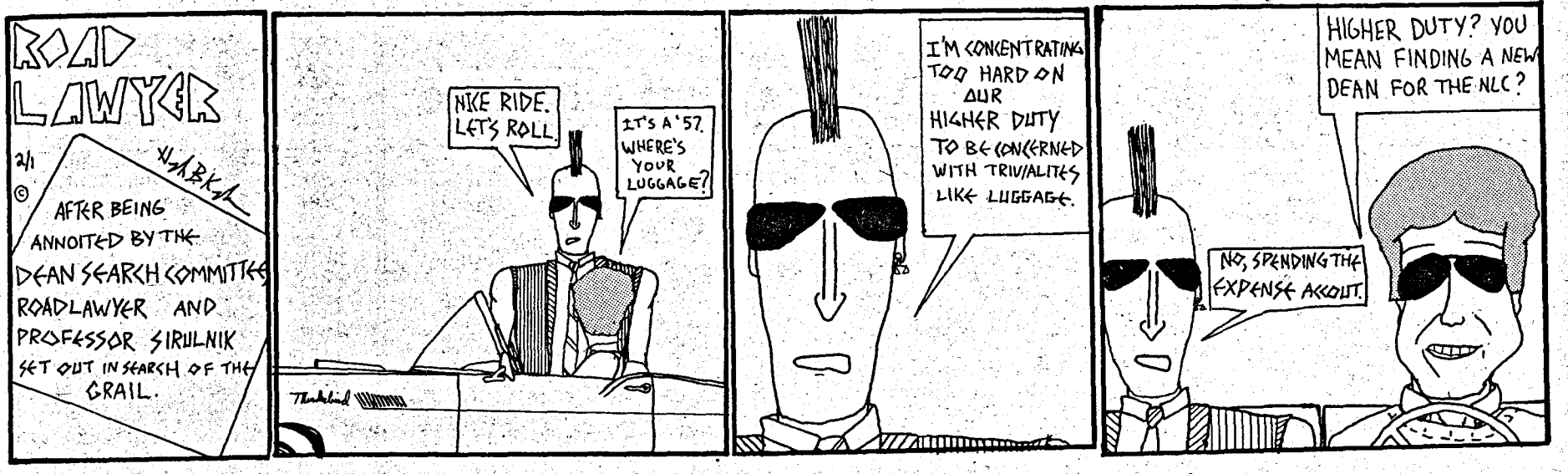
Issues 56:2 and 56:3, with cover dates of January and March, respectively, are both expected to be published in March. If the March issue is in fact published in March, it will be the first time in recent memory that a cover date has matched the calendar date.

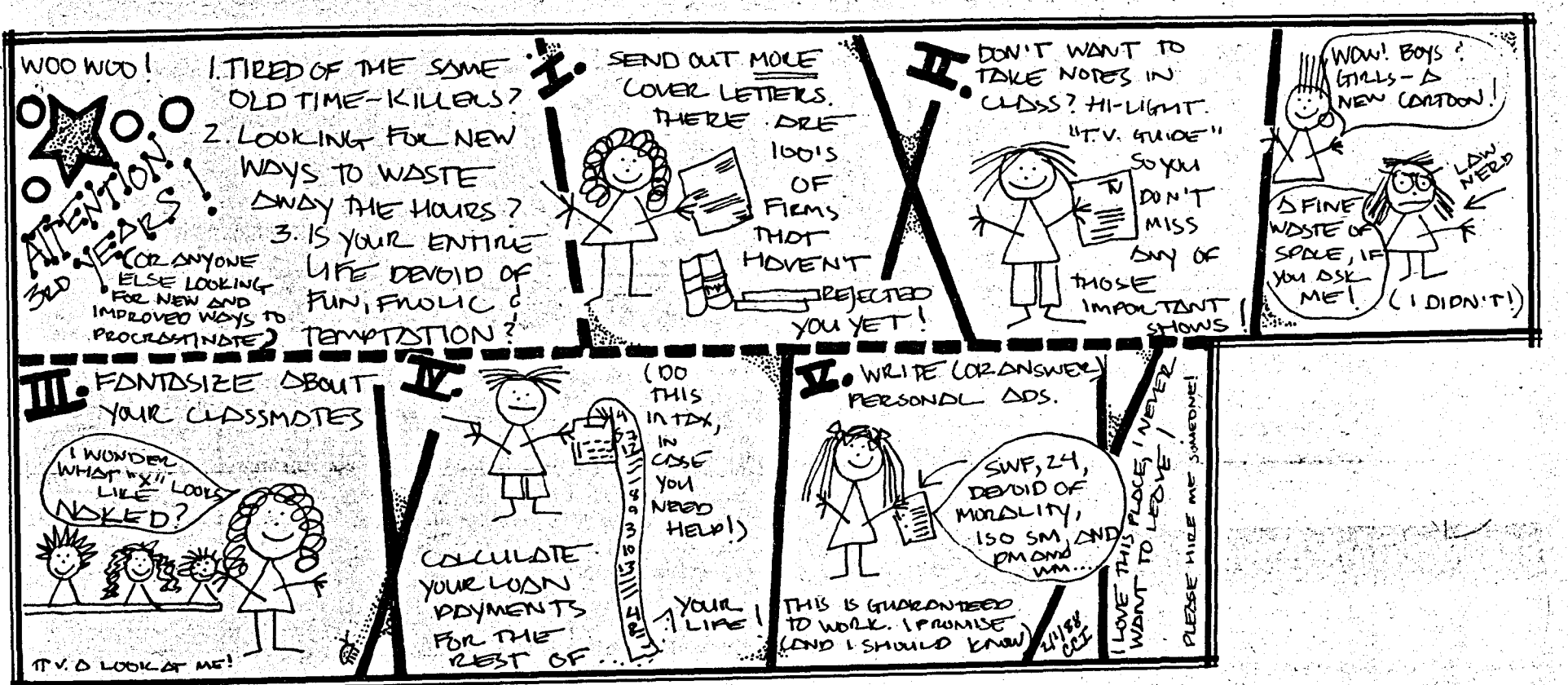
This year's D.C. Circuit Review, 56:4, with a cover date of May, will contain a memorial tribute to former chief judge of the D.C. Circuit, Carl McGowan, who passed away in December.

Scholars, jurists, attorneys, and former law clerks have agreed to write essays in memory of Judge McGowan, including: Justice Lewis F. Powell, Jr. (retired); Judges Ruth Bader Ginsburg and Douglas Ginsburg of the D.C. Circuit; Lloyd N. Cutler of Wilmer, Cutler & Pickering; Erwin Griswold, former United States Solicitor General and Dean of Harvard Law School; Richard A. Merrill, Dean Emeritus and Professor, University of Virginia Law School (former law clerk); Geoffrey P. Miller, Professor, University of Chicago Law School (former law clerk); and Bradley M. Campbell (law clerk for 1987-88).

Only one firm decision has been reached regarding the content of the August issue, 56:5. Former ACLU attorney, Richard Emery, who appeared recently on *Nightline*, has agreed to write a commentary addressing a controversial Justice Department program that encourages drug tests of arrestees.

FUNNIES





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PERSONALS

SM, 6'2", 200lb., trying to lose weight ISO SF willing to "exercise" with me. Respond via Advocate, #2347

SM, NLC employee interested in law and legal issues ISO SF for fun and frolic. Respond via Advocate, #4782

SWF 24, vivacious, curvaceous and outrageous ISO SM, non-dweeb, for aesthetically immoral pursuits. Respond via Advocate, #2387

Top 20 law school ISO Dean. Must be scholarly, of the highest integrity and an all-around good guy like the one we have now. Respond via Advocate, #1462

Honeybear: I'll bring the Wesson Oil, you bring the Saran Wrap. It's a party. Love, Boo-boo head.

Only 126 days until graduation, and I'm still unemployed.

Today's horoscope: your life is going to hell and there's not a darn thing you can do about it.

Congratulations Ken and Jennifer on the new prosepective little Brother(s). Love, the *Advocate* staff.

SCARY RUMORS I HAVE HEARD

by CeCe Ibson

1. Robert Bork is the front runner for NLC Dean.
2. Al Haig is the front runner for the Republican nomination.
3. Rob Hirsh is the front runner for SBA President.
4. Lloyd Elliott's replacement is Stephen Joel Trachtenberg from the University of Hartford. GW's campaign has been changed from "Harvard on the Potomac" to "Hartford on the Potomac".
5. The SBA does more than just provide coffee and donuts.
6. The CDO was lying when they told us that 96% of all NLC grads will find employment upon graduation.

6a. Scott Ives has a job.

7. The 1987-1988 Student Directory was traded to Iran for money for the contras to release the hostages (or something like that). Dennis Quinn knew nothing about it.
8. Marion Barry is the front runner for NLC Dean.
9. This is my real hair color.

Attention: The next issue of *The Advocate* will address the topic of love and law school. All interested students are invited to submit stories. Deadline: February 11th.

TOP TEN LIST

From the home office in Clear Lake, Texas come the top ten reasons to appoint Professor Banzhaf the new NLC Dean:

10. The Smoking policy will be strictly enforced.
9. He can put Diet Coke in the cigarette machines.
8. Law Review, Journal and SBA really don't need windows as much as ". . . younger faculty candidates considering the NLC . . . [who would be] consigned to offices where they will not see the light of day until many deaths or retirements move them up the pecking (and office-choosing) order."
7. Deans have rather short tenures.
6. The move will bring great [amounts] publicity to the NLC.
5. Just imagine how big the bulletin board outside the Dean's suite could be.
4. Dean Banzhaf wouldn't die of lung cancer.
3. Emphysema is contagious.
2. He could teach fewer classes, thus enabling him to devote more time to "suing the bastards."
1. The NLC will be ranked NUMBER ONE by *U.S. News & World Reports*.

Duke's Professor Christie Visits the NLC

by Carolyn Kuenne

Professor George C. Christie of the Duke University law faculty is at the NLC for the spring semester, teaching both jurisprudence and American legal history. Professor Christie received both his A.B. and J.D. from Columbia University, a degree in International Law from Cambridge, and his S.J.D. from Harvard University.

Professor Christie's principal fields are torts, jurisprudence and legal reasoning. However, he has also taught international law and has lectured in New Zealand, Israel, Belgium, China, Johannesburg, South Africa, and spent a year as a Fulbright Scholar at Cambridge University. He has also led two separate legal studies tours of the Soviet Union.

At home in the United States he has been a visiting professor at the Universities of North Carolina, Michigan, and Florida. He was also a Ford Fellow in Law at Harvard Law School.

For Professor Christie the most distinct difference between Duke University School of Law and the NLC is that we are an urban law school with a far larger student body than that of Duke. Thus, teaching in urban Washington, D.C. is quite different than Durham, North Carolina.

Although Professor Christie is not teaching any first year courses here at the NLC, he does so at Duke. At Duke the classes range from twenty to one hundred and twenty students with every first year student having at least one small class.

The legal research program is incorporated into the other full credit first year courses. Thus Professor Christie, in teaching his first year torts classes, also teaches one credit of legal research which is intertwined with an area of torts, such as defamation. Although the schools differ with respect to size and location, Christie finds the students to be quite similar.

Professor Christie is enjoying the NLC even though all is still new. He claims he has been lecturing more these past few weeks than is his customary style, but also claims that will soon change.

Amnesty (Cont'd)

From page 14

Syrian Attorney

Attorney Riad Al-Turk has been held incommunicado in Damascus for seven years without charge or trial, apparently for being First Secretary of the outlawed Communist Party Political Bureau.

Arrested by security agents on October 28, 1980, he has reportedly been tortured severely since his arrest on at least three occasions. He is now critically ill from lack of essential medical treatment for diabetes while in prison. He recovered from a 25-day coma on January 10 of this year and is now held in solitary confinement at Al-Mezze Prison.

Please write polite letters urging that Mr. Al-Turk be immediately and unconditionally released and that he be permitted access to doctors of his choice:

His Excellency Muhammad Harba
Minister of the Interior
Ministry of the Interior
Damascus, SYRIAN ARAB REPUBLIC

If you receive any response to your letters, please notify us immediately. Jon Katz 785-2562, David Epstein 521-9459.

Dave Hertz
847-6080